CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 02

Service Tax Appeal No. 88396 of 2018

(Arising out of Order-in-Appeal No.PK/330/MC/2018 dated 23.04.2018 passed by Commissioner (Appeals-II) CGST & Central Excise, Mumbai)

M/s Reliance Staffing Services, **.....Appellant**
601 & 636, Tardeo Air- Conditioned Market Bldg.,
Tardeo Road, Tardeo,
Mumbai 400 034.

VERSUS

Commissioner of CGST & Central Excise, Mumbai Central, **.....Respondent**
4th Floor, C. Ex., Building, Churchgate,
Mumbai - 400 020.

Appearance:

Shri C.M. Sharma, Consultant for the Appellant
Shri Sudhir B. Mane, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/87438 /2019

Date of Hearing :18.04.2019
Date of Decision:18.04.2019

Per: S.K. MOHANTY

Heard both sides and perused the records.

2. Ld. Commissioner (Appeals) vide the impugned order dated 23.04.2018 has rejected the appeal filed by the appellant on the ground of limitation. He has held that the appeal was preferred before him beyond the statutory time limit, including the condonable period and as such, the same is legally not maintainable. In support of rejection of the appeal, the Ld. Commissioner (Appeals) had relied upon the judgment of Hon'ble Supreme Court in the case of Singh Enterprises Vs. Commissioner of Central Excise, reported in 2007-TIOL-231-SC-CX.

3. It is an admitted fact on record that the adjudication order was received by the appellant on 27.06.2017 and thereafter, the appeal was preferred by it before the Commissioner (Appeals) on 03.10.2017. In so far as filing of appeal before the Commissioner (Appeals) is concerned, Section 85(4) (3A) of the Finance Act, 1994 provides that the appeals have to be preferred within a period of two months from the date of receipt of the adjudication order and that the Commissioner (Appeals) is empowered to condone the delay up to a further period of one month. It transpire from the records that the appeal was preferred by the appellant before the Commissioner (Appeals) beyond the condonable period provided in the statute. In this context, the Hon'ble Supreme Court in the case of Singh Enterprises (supra) have held that the Commissioner (Appeals) did not have the power to condone delay beyond the period of 30 days from the day of expiry of 60 days prescribed for filing statutory appeals.

4. In view of the above settled position of law, I do not find any infirmity in the impugned order passed by the Ld. Commissioner (Appeals). Accordingly, appeal filed by the appellant is dismissed.

(Operative portion of the order was pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

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